Ombudsman's Jurisdiction

and the

Public Sector Pension Plan Boards

Submitted to the Select Standing Committee
on Finance & Government Services
on November 20, 2003
as part of the Budget Submission

Pension Complaints

Files Closed Between January 1, 1998 And December 30, 2002

No Investigation

Enquiry	42
Statute barred	1
Not a matter of administration (s.10)	3
Declined and discontinued	18
Settled before investigation	2
Total	66

Investigation

Declined and discontinued	18
Settled	31
Substantiated and remedied	1
Not substantiated	18
Total	68

Ombudsman-Initiated Investigation

Discontinued	1
Total	1

Total files 135

BACKGROUNDER

Issue

The Ombudsman's jurisdiction, and the Public Sector Pension Plan Boards (College, Municipal, Public Service and Municipal Boards of Trustees).

Pension dropped 25%

Ms. F. retired, based on a pension estimate of $830 but received a pension of $590. She could not live on this and had to go back to work. The error in estimate was acknowledged, but an appeal to the Board did not lead to any redress for the loss Ms. F. experienced. We stressed the need to provide complete and reliable information to employees. Information provision has improved, and Ms. F. accepted a settlement offer of $10,000.

History

- From proclamation of the ***Ombudsman Act*** in 1979, to creation of the four Boards of Trustees pursuant to the Public Sector Pension Plans Act of 1999, the Ombudsman's Office had authority to investigate complaints about both the agency administering pensions (first the Superannuation Commission; now the Pension Corporation) and the Boards directing and hearing appeals about the administration of pensions.

- Since creation of the Boards of Trustees, my Office's authority includes the Pension Corporation, but may not extend to the Boards of Trustees. In effect, I can investigate a complaint about the body delivering a decision, but not about the Board which set the policy requiring that decision. I may have the Corporation's agreement that it made an error, but may not investigate if the Board decides not to authorize a settlement of the complaint.

- In 2001 and 2002 all four Boards of Trustees agreed to support a request to be included within my Office's jurisdiction, by amendment to the Schedule to the Ombudsman Act. A request for this amendment was made to the Minister of Finance, as the Minister responsible for pension boards, early in 2002. In 2003 the Minister suggested that this matter properly should be brought before the Select Standing Committee for its consideration.

Discussion

- Pensions are big business. The four public sector plans have approximately 358,000 members and pensioners, and administer plan funds of approximately $36.1 billion. In large measure, the plan members work, or have worked, for government authorities within my Office's jurisdiction, in hospitals, schools, and local and provincial government agencies.

- Pension issues are not big business for my Office, in terms of workload volume. We receive approximately 25 complaints a year, about half of which are investigated. Most of these are determined not to be substantiated, or are settled in consultation with the Pension Corporation. For the few files in which there appears to be unfairness and we do not reach settlement with the Corporation, the applicable Board of Trustees must be involved in designing or approving an individual settlement, or in amending a policy or practice. My Office can continue to perform the work necessary for investigation of pension complainants with minimal impact on our resources.

- Pensions are important business to the complainants who contact my Office. Typical complaints involve questions of eligibility for pensions, the amount of pensions, the purchase or transfer of pensionable time, or the calculation of the cost of a purchase. These matters are sometimes critical factors in choices about and during retirement. If complainants have been unable to address their concerns with the Corporation and/or the Board, their option, other than the courts, is to come to my Office.

- Generally, complaints are made about the Corporation's procedures and decisions. Complainants may not know, or care, whether the matter is within the Corporation's discretion or relates to a Board policy or decision.

Changing jobs changing pensions

Mr. H. complained that he was given inaccurate or insufficient information about the impact on his pension, if he took a job in BC. He called BC before accepting a job in the Provincial public service, to ask the terms of bringing his Alberta public service pension to BC. He was told that pensions were "fully transferable" when the reality was much more complex. The Superannuation Commission agreed to provide better information to future applicants for transfer, so that people know that a transfer could result in a shortfall of both funds, and service eligibility.

- Complainants come to my Office because they perceive that the administration of their pensions is a matter of public interest and concern. The Corporation is an agent of the government. The Information and Privacy Commissioner and the Auditor General take jurisdiction over public sector pension matters, and at a common sense level complainants perceive that the current Boards of Trustees are performing the same role as the previously appointed Boards.

- My Office has provided significant service as a result of investigating pension complaints. Over the years our comments and recommendations have contributed to the enhanced member services available today, and have led to the remedy of significant individual instances of unfairness. In many of these complaints, complainants had tried, without success, to address matters through the Corporation and the Boards before contacting our Office.

Take your Money back

Mr. W. complained that he was given incorrect information by the Superannuation Commission about his future pension rights. After he left government employment, Mr. W asked for and received an estimate of future pension, and left his money in the fund on that basis. Years later, he was told he did not qualify for a pension. After investigation the Corporation offered Mr. W. an additional payment of $8,000, enhanced interest for the period in which it held his funds.

Options

1. To confirm my Office's role in reviewing pension complaints, by adding the four Boards of Trustees to the Schedule to the Ombudsman Act. This step has the advantage of enabling previous services to continue, in line with relationships between the Boards of Trustees and other Offices of the Legislature. There is no material cost in resourcing this option.

2. My Office could continue to investigate complaints about the Corporation, but decline or discontinue investigation of any matter related to the Board. Since the number of complaints involving a Board is unpredictable, cost savings are unknown but minimal, and would exist only if my Office does not pursue an apparent unfairness. Choosing not to pursue an apparent unfairness is antithetical to the purpose and mandate of my Office. Since the Corporation delivers the decisions and actions affecting plan members, my

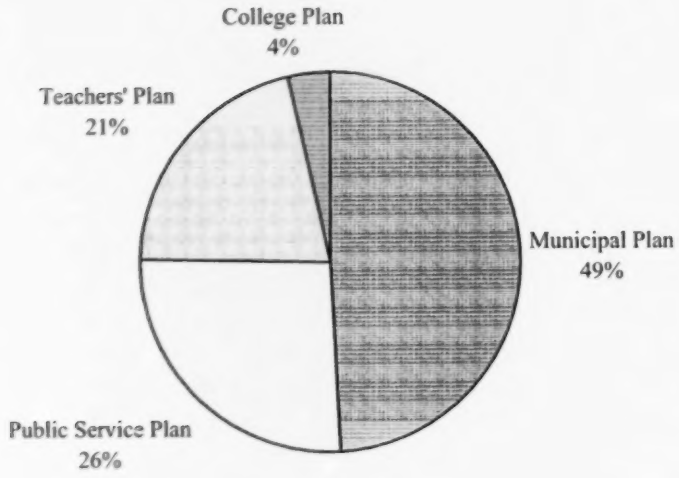
option would be to press for resolution of any unfairness by the Corporation, whether or not a Board of Trustees authorized such a resolution. This action would reflect the Corporation's responsibility, as an agent of the government, to be subject to oversight of the fairness of its administrative actions and decisions.

3. My Office could cease investigating all pension complaints. This would be contrary to the purpose and function of my Office. I have, reluctantly, taken the decision not to investigate complaints about some jurisdictional authorities at this time, in response to significant reductions in my Office's budget. I cannot justify such a decision in this instance, since the volume of complaints is small and thus there are no offsetting financial imperatives to balance the public's interest that we will accept and will consider its complaints.

8 years is a long time

Mr. C. worked at a college for 20 years, but the first eight were not considered "pensionable" as he worked only 10 months a year. He thought the Superannuation Commission's interpretation of the law was wrong, and that all his time qualified for purchase of pension arrears. After a long investigation the Corporation agreed, and changed its interpretation of the Pension (Municipal) Act. Mr. C., and anyone else in a similar position, can qualify for pension on this kind of service.)

Current Participation in Public Sector Pensions



Municipal Plan

Health Authorities	45 %
Local Government	31 %
School Districts	12 %
Colleges	3 %
Other	8 %

Public Service Plan

Provincial Payroll	60 %
Other Employers (largely crown agencies)	40%

Teachers' Plan

Large majority = employees of school districts

Colleges Plan

All = employees of provincial colleges and institutions

COLLEGE PENSION BOARD OF TRUSTEES

October 16, 2001

OFFICE OF THE OMBUDSMAN
VICTORIA
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Howard Kushner
Ombudsman
PO Box 9039 Stn Prov Govt
Victoria, British Columbia
V8W 9A5

Dear Mr. Kushner:

I am writing to you to advise that the Teachers' Pension Board of Trustees at their meeting on October 4, 2001 passed the following motion:

> It is moved that the College Pension Board of Trustees formally request that the College Pension Board of Trustees be listed as an "authority" under the Schedule to the *Ombudsman Act*, R.S.B.C. 1996, c. 340.

In the past, we have been informally complying with the provisions of the *Act* and now wish to formalize the arrangements to provide an additional forum for both the trustees and plan members in dealing with members who are dissatisfied with board decisions.

Please let me know if you have any questions regarding this letter. We look forward to receiving your notification that our request has been implemented.

Yours truly,

John W Cook

John W. Cook
Chair
College Pension Board of Trustees

pc College Pension Board of Trustees
Barb MacDonald

College Pension
Board of Trustees

Mailing Address
PO Box 9460 Stn Prov Govt
Victoria BC V8W 9V8

Location:
2995 Jutland Road

Phone (250) 387-0500
Fax (250) 387-4199

PUBLIC SERVICE PENSION BOARD OF TRUSTEES

October 16, 2001

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Howard Kushner
Ombudsman
PO Box 9039 Stn Prov Govt
Victoria, British Columbia
V8W 9A5

Dear Mr. Kushner:

I am writing to you to advise that the Public Service Pension Board of Trustees at their meeting on September 25, 2001 passed the following motion.

> It is moved that the Public Service Pension Board of Trustees formally request that the Public Service Pension Board of Trustees be listed as an "authority" under the Schedule to the *Ombudsman Act*, R.S.B.C. 1996, c. 340.

In the past, we have been informally complying with the provisions of the *Act* and now wish to formalize the arrangements to provide an additional forum for both the trustees and plan members in dealing with members who are dissatisfied with board decisions.

Please let me know if you have any questions regarding this letter. We look forward to receiving your notification that our request has been implemented.

Yours truly,

John W Cook

John W. Cook
Chair
Public Service Pension Board of Trustees

pc Public Service Pension Board of Trustees
Barb MacDonald

Public Service Pension Board of Trustees

Mailing Address:
PO Box 9460 Stn Prov Govt
Victoria BC V8W 9V8

Location:
2495 Jutland Road

Phone (250) 387-8200
Fax (250) 387-4199

TEACHERS' PENSION BOARD OF TRUSTEES

October 16, 2001

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LOC

Howard Kushner
Ombudsman
PO Box 9039 Stn Prov Govt
Victoria, British Columbia
V8W 9A5

Dear Mr. Kushner:

I am writing to you to advise that the Teachers' Pension Board of Trustees at their meeting on September 27, 2001 passed the following motion:

> It is moved that the Teachers' Pension Board of Trustees formally request that the Teachers' Pension Board of Trustees be listed as an "authority" under the Schedule to the *Ombudsman Act*, R.S.B.C. 1996, c. 340.

In the past, we have been informally complying with the provisions of the *Act* and now wish to formalize the arrangements to provide an additional forum for both the trustees and plan members in dealing with members who are dissatisfied with board decisions.

Please let me know if you have any questions regarding this letter. We look forward to receiving your notification that our request has been implemented.

Yours truly,

John W. Cook

John W. Cook
Chair
Teachers' Pension Board of Trustees

pc Teachers Pension Board of Trustees
Barb MacDonald

Teachers' Pension
Board of Trustees

Mailing Address:
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MUNICIPAL PENSION BOARD OF TRUSTEES

August 13, 2002

OFFICE OF THE [illegible]
VICTORIA
RECEIVED AUG 19 2002

Howard Kushner
Ombudsman
PO Box 9039 Stn Prov Govt
Victoria, British Columbia
V8W 9A5

Dear Howard:

Thank you for attending the June 19, 2002 meeting of the Municipal Pension Board of Trustees.

As a result of your presentation the trustees passed the following resolution:

> It is moved that the Municipal Pension Board of Trustees formally request that the Municipal Pension Board of Trustees be listed as an "authority" under the Schedule to the *Ombudsman Act*, R.S.B.C. 1996, c. 340.

I believe that your presentation and the question and answer period alleviated many of the concerns that have been previously expressed by the trustees. This will enable us to move forward on a positive note by providing an additional forum for plan members who are dissatisfied with trustee decisions.

Please let me know if you have any questions regarding this letter. We look forward to receiving your notification that our request has been implemented.

Yours truly,

John W Cook

John W. Cook
Chair
Municipal Pension Board of Trustees

pc B. MacDonald, Secretary, Municipal Pension Board to Trustees

Municipal Pension
Board of Trustees

Mailing Address:
PO Box 9460 Stn Prov Govt
Victoria BC V8W 9V8

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5th Floor
935 Waterfront Crescent
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COLLEGE PENSION BOARD OF TRUSTEES

October 14, 2003

OFFICE OF THE OMBUDSMAN
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Howard Kushner
Ombudsman
PO Box 9039 Stn Prov Govt
Victoria, British Columbia
V8W 9A5

Dear Mr. Kushner:

Thank you for your letter of August 19, 2003 in which you indicated that you have decided to continue to pursue an amendment to the Schedule of the *Ombudsman Act* to include the College Pension Board of Trustees as an authority under the Act.

I am writing to advise you that the College Pension Board of Trustees considered your letter at their meeting on September 25, 2003 and have decided that they will take no position with respect to your continued pursuit of an amendment to the Schedule.

Thank you for advising us of your intentions and providing us with the opportunity to comment. We would also ask that you advise us of government's decision on this matter when it is made.

Yours truly,

John W Cook

John W. Cook
Chair
College Pension Board of Trustees

pc: Brenda Locke, Chair, Standing Committee on Finance and Government
Barb MacDonald, Secretary, College Pension Board of Trustees

College Pension
Board of Trustees

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PO Box 9460 Stn Prov Govt
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5th Floor
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MUNICIPAL PENSION BOARD OF TRUSTEES

October 29, 2003

Howard Kushner
Ombudsman
PO Box 9039 Stn Prov Govt
Victoria, British Columbia
V8W 9A5

Dear Howard Kushner:

Thank you for your letter of August 19, 2003, in which you indicated that you have decided to continue to pursue an amendment to the Schedule of the *Ombudsman Act* to include the Municipal Pension Board of Trustees as an authority under the Act.

I am writing to advise you that the Municipal Pension Board of Trustees considered your letter at their meeting on October 7 and 8, 2003, and have decided that they will take no position with respect to your continued pursuit of an amendment to the Schedule.

Thank you for advising us of your intentions and providing us with the opportunity to comment. We would also ask that you advise us of government's decision on this matter when it is made.

Yours truly,

Kenneth Bayne

Kenneth Bayne
Chair

pc: Brenda Locke, Chair, Standing Committee on Finance and Government
Karen James, Secretary, Municipal Pension Board of Trustees
Vicky Grabb, Senior Administrative Officer, Municipal Pension Board of Trustees

Municipal Pension
Board of Trustees

Mailing Address
PO Box 9400 Stn Prov Govt
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5th Floor
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PUBLIC SERVICE PENSION BOARD OF TRUSTEES

October 14, 2003

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Howard Kushner
Ombudsman
PO Box 9039 Stn Prov Govt
Victoria, British Columbia
V8W 9A5

Dear Mr. Kushner:

Thank you for your letter of August 19, 2003 in which you indicated that you have decided to continue to pursue an amendment to the Schedule of the *Ombudsman Act* to include the Public Service Pension Board of Trustees as an authority under the Act.

I am writing to advise you that the Public Service Pension Board of Trustees considered your letter at their meeting on September 29 and 30, 2003 and have decided that they will take no position with respect to your continued pursuit of an amendment to the Schedule.

Thank you for advising us of your intentions and providing us with the opportunity to comment. We would also ask that you advise us of government's decision on this matter when it is made.

Yours truly,

John W Cook

John W. Cook
Chair
Public Service Pension Board of Trustees

pc: Brenda Locke, Chair, Standing Committee on Finance and Government
Barb MacDonald, Secretary, Public Service Pension Board of Trustees

Public Service Pension Board of Trustees

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Victoria BC V8W 9V4

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5th Floor
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TEACHERS' PENSION BOARD OF TRUSTEES

October 14, 2003

OFFICE OF THE OMBUDSMAN
VICTORIA

RECEIVED OCT 16 2003

File # CP 03-35 Page No. 1/1
ID # 101589 Copy to: Exec/Pol/Admin
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Howard Kushner
Ombudsman
PO Box 9039 Stn Prov Govt
Victoria, British Columbia
V8W 9A5

Dear Mr. Kushner:

Thank you for your letter of August 19, 2003 in which you indicated that you have decided to continue to pursue an amendment to the Schedule of the *Ombudsman Act* to include the Teachers' Pension Board of Trustees as an authority under the Act.

I am writing to advise you that the Teachers' Pension Board of Trustees considered your letter at their meeting on October 2 and 3, 2003 and have decided that they will take no position with respect to your continued pursuit of an amendment to the Schedule.

Thank you for advising us of your intentions and providing us with the opportunity to comment. We would also ask that you advise us of government's decision on this matter when it is made.

Yours truly,

John W. Cook

John W. Cook
Chair
Teachers' Pension Board of Trustees

pc: Brenda Locke, Chair, Standing Committee on Finance and Government
Barb MacDonald, Secretary, Teachers' Pension Board of Trustees

Teachers' Pension Board of Trustees

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